

Lamb County Independent School District No. 1, of Lamb County; defining its boundaries, providing for election of a board of trustees to manage and control the schools of said district; authorizing said district to issue bonds, and to assume a part of the outstanding indebtedness of the Littlefield Independent School District, and of the Olton Independent School District; and investing said district with all the rights, powers, privileges and duties of independent school districts organized or existing under the General Laws of the State of Texas."

Have had the same under consideration, and I am requested by the committee to report the same back to the Senate with the recommendation that it do pass, and being a local bill, that it be not printed.

WOOD, Chairman.

Committee Room,

Austin, Texas, May 8, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 108, A bill to be entitled "An Act creating the Frost Independent School District in Navarro County, Texas; defining its boundaries; including the present Common School District No. 60; providing for a board of trustees in said district, conferring upon said district and its board of trustees all the rights, powers, privileges and duties now conferred and imposed by the General Laws upon Independent School Districts and the board of trustees thereof; providing that the management and control of the public free schools of said district shall be vested in a board of trustees composed of seven persons, and providing for the election and qualification of said trustees; providing for the assumption by said district of the outstanding bonded indebtedness heretofore voted in Frost Common School District No. 60; providing for the appointment of a tax assessor and collector and board of equalization for said district; and declaring an emergency."

Have had the same under consideration, and I am requested by the committee to report the same back to the Senate with the recommendation that it do pass and, being a local bill, that it be not printed.

WOOD, Chairman.

EIGHTEENTH DAY.

Senate Chamber,
Austin, Texas,

Wednesday, May 9, 1923.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem Murphy.

The roll was called, a quorum being present, the following Senators answering to their names:

Baugh.	Parr.
Bledsoe.	Pollard.
Bowers.	Rice.
Burkett.	Ridgeway.
Clark.	Rogers.
Cousins.	Strong.
Davis.	Thomas.
Floyd.	Turner.
Holbrook.	Watts.
Lewis.	Wirtz.
McMillin.	Witt.
Murphy.	Woods.

Absent.

Bailey.	Stuart.
Doyle.	Wood.
Fairchild.	

Absent—Excused.

Darwin.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Watts.

Excused.

Senator Doyle for today and tomorrow, on account of important business, on motion of Senator Strong.

Senator Bailey for this morning, on account of committee work, on motion of Senator Clark.

Bills on First Reading.

The following bills, introduced today, were each read first time and referred to appropriate committees as follows:

By Senator Pollard:

S. B. No. 103, A bill to be entitled "An Act repealing Chapter 78 of the Special and Local Laws of the Thirty-eighth Legislature, passed at its Reg-

ular Session, being an Act creating the Brownsboro Independent School District in Henderson County, Texas; and declaring an emergency."

To the Committee on Educational Affairs.

By Senator Davis:

S. B. No. 104, A bill to be entitled "An Act authorizing steam or electric railway companies, street railway companies, interurban railway companies and other chartered transportation companies, sleeping car companies, or persons or associations of persons operating the same, or the receivers or lessees thereof, or their officers, agents or employees, to issue free transportation to ministers of religion in this State when making intrastate trips; defining ministers of religion; and declaring an emergency."

To the Committee on Civil Jurisprudence.

By Senators Ridgeway and Burkett:

S. B. No. 105, A bill to be entitled "An Act regulating the lighting of all motor vehicles in Texas, providing for the testing of such lighting devices and the approval of same by the State Highway Commission before being used on any motor vehicle operated within this State; giving the Highway Commission power to conduct such test and providing that they shall charge a fee sufficient to cover the actual expense of conducting such test; providing penalties for the violation of this Act and repealing all laws in conflict herewith and declaring an emergency."

To the Committee on Criminal Jurisprudence.

By Senator Rogers:

S. B. No. 106, A bill to be entitled "An Act to amend Title 5, Art. 30, paragraphs 15, and 59 of the Revised Civil Statutes of Texas of 1911, which article provides for Judicial Districts of the State; and which paragraph 15 defines the Fifteenth Judicial District and determines the date and length of term of such district court in Grayson County; and which paragraph 59 defines the Fifty-ninth Judicial District and determines the date and length of term of such district court in each of the counties of said district, namely, Grayson and Collin Counties; and

which amendment provides for a change in the terms and time of holding court in each of said judicial districts, and declaring an emergency."

To the Committee on Judicial Districts.

By Senator Davis:

S. B. No. 107, A bill to be entitled "An Act to create and provide for a Department of Insurance, for the State of Texas, separate and distinct from the Department of Banking of this State, vesting therein and giving to it jurisdiction of all matters, things, powers and functions of the Department of Insurance and Banking, except such as may have been divested therefrom and vested in the Department of Banking; and giving to it all the powers, jurisdiction, things and functions now vested in the State Insurance Commission; to provide for a seal of such office; to require of the Commissioner of Insurance an oath of office and a bond, for the faithful discharge of his duties. To provide for a Deputy Commissioner and to define the duties and powers and obligations of the Deputy Commissioner, and to provide for Actuaries and examiners, and for clerical help for such department. To amend Chapter 7 of Title 65 of the Revised Statutes of the State of Texas and particularly to amend Articles 4485, 4486, 4487, 4488, 4489, 4490, 4491 and 4492, and to repeal all laws and parts of laws in conflict herewith, and to declare an emergency."

To the Committee on Insurance and Banking.

By Senator Thomas by request:

S. B. No. 108, A bill to be entitled "An Act to facilitate the marketing and distribution of the natural resources of the State, and the products manufactured therefrom, by extending the right of condemnation to certain corporations, and declaring an emergency."

To the Committee on Civil Jurisprudence.

By Senator Pollard:

S. B. No. 109, A bill to be entitled "An Act amending Chapter 19, Local and Special Laws, passed by the Thirty-seventh Legislature at its First Called Session, as amended by Chapter 88, Local and Special Laws, passed by the Thirty-eighth Legis-

lature at its Regular Session, creating the Canton Independent School District in Van Zandt County, Texas; defining its boundaries, providing for the extension thereof, including the present Canton Independent School District; providing for a board of trustees in said district, conferring upon said district and its boards of trustees all the rights, powers, privileges, and duties now conferred and imposed by the General Laws of Texas upon independent school districts and the boards of trustees thereof; providing that the present board of trustees continue in office until the expiration of their respective terms; providing that the outstanding bonded indebtedness of each school district included within the bounds of said district shall remain chargeable against the territory which voted the same; providing that the district as herein created may assume such outstanding bonded indebtedness; providing for the repeal of all laws in conflict herewith; and declaring an emergency."

To the Committee on Educational Affairs.

S. R. No. 31.

By Senator Cousins:

Whereas, The Texas Radio Corporation will tonight at eight o'clock broadcast a special program for the entertainment of the Legislators, and

Whereas, Several of the speakers on the program are members of the Senate and House, and

Whereas, It is desired to give the entire Legislature the pleasure and benefit of the program therefore, be it

Resolved, That the Texas Radio Corporation be allowed to place in the Senate Chamber for this evening at eight o'clock a radio receiver and a loud speaking instrument, through which the program may be heard all over the Chamber.

The resolution was read and adopted.

Text Book Investigating Committee Report Adopted.

Senator Wirtz called up the report of the Joint Committee appointed in the Regular Session of

the Thirty-eighth Legislature to investigate the letting of contracts by the State Text Book Commission, which report is as follows, to-wit:

Text Book Investigation Report.

By Senator Bowers:

The Capitol,

Austin, Texas, May 3, 1923.

Hon. T. W. Davidson, President of the Senate.

Hon. R. E. Seagler, Speaker of the House of Representatives.

Sirs: We, your Joint Committee, appointed and acting under and by virtue of House Concurrent Resolutions Nos. 4 and 35, passed at the Regular Session of the Thirty-eighth Legislature of the State of Texas, directing an investigation to be made into the matter of awarding contracts for textbooks, made by the Texas State Text-Book Commission in December, 1922, beg leave herewith to submit our report.

The Joint Committee has made inquiry into and investigation of the matters committed to it by collecting and studying all known and available documentary evidence bearing upon the awarding of said contracts, and has summoned and examined numerous witnesses touching their knowledge of said matters and transactions. The committee was not however, able to obtain the testimony of any person officially connected with the American Book Company although it made diligent effort to do so. All testimony of said witnesses was taken down in shorthand, and transcript of said testimony, as well as of copy of all documentary evidence, accompanies this report as basis for the committee's findings of fact upon such points as were deemed pertinent to the conclusions arrived at and the recommendations the Committee has deemed proper to make, all of which are hereinafter set out, as follows:

Findings of Fact.

1. The committee finds that various agents, representatives and employees of textbook publishing houses interested in and submitting bids to the State Textbook Commission in 1922 discussed with and presented to various members of the Textbook Commission, individually and separately, at times other than when the Commission was in regular session, the merits of textbooks that were up

for adoption before said Commission in December, 1922, with the purpose and intent of influencing members of said Textbook Commission in the selection and adoption of textbooks, in violation of the letter and spirit of Sections 1 and 26, Chapter 44, Acts of the First called session of the Thirty-fifth Legislature.

2. That practically all, if not all, textbook publishing houses, including all companies to whom new contracts were awarded or their legal representatives, agents and employees, who were interested in bids on textbooks presented to said Commission in 1922 sent and mailed to practically all members of said Textbook Commission letters and briefs concerning textbooks up for adoption, containing arguments for the adoption of such textbooks for use in the public schools of Texas, and containing discussions of the merits of such textbooks, for the purpose of influencing members of the Textbook Commission in the selection and adoption of such textbooks, in violation of the spirit of said law.

3. That after nominations of individuals had been made to the Governor of Texas by the nominating committee provided for in Section 1 of the Act, and either prior to or after the appointment by the Governor of eight persons from such list of nominations to constitute the State Textbook Commission as the same was constituted in 1922, the American Book Company and the John C. Winston Company, each being a contender for contracts on geographies, and perhaps other companies, through their agents and representatives, shipped to certain schools in Texas books in sufficient number to supply the pupils in at least one class, with the knowledge and consent of the superintendents of said schools, and without making any charge for said books, with the agreement and understanding that such books should be placed in the hands of pupils and used in the class room and given a test for the purpose of demonstrating the merits of such books. That said books were in fact used by the teachers in said schools and studied by said pupils and recitations given from said books more or less regularly from one to several months. That said books were not then and there the officially adopted texts for use in said schools and had not previously been approved by the State Text-

book Commission. That during the year 1922 either the superintendent or some teacher in said schools was a member of the State Textbook Commission, and in no instance were any books sent for such use to any schools except those wherein there was some member the Textbook Commission employed.

4. The committee finds that prior to the first meeting of the Textbook Commission, at which the bids were opened, in December, 1922, Frank R. Adrien, who was then and there a legal representative and employe of the American Book Company, approached various members of the Commission, not then and there assembled in a regular meeting of the Commission, and made a proposition to them to the effect that if the Commission adopted the arithmetics and geographies published by said American Book Company, said company would establish a depository within the State of Texas and would give a further reduction of ten percent on the prices mentioned in the bid said company was submitting.

5. The committee has not been able to obtain any direct evidence of bribery or fraud in connection with the letting of the awards, and the entering into of said contracts, but in this connection finds the following facts: The records of the Committee show that the contract for geographies was the largest contract awarded, and that the adoption thereunder will cost the State approximately one million dollars for the first year. The Committee further finds that after the bids had been opened by the Commission at the meeting in December, 1922, a telegram was presented from the American Book Company offering to give ten per cent discount on the prices set forth in its bid in the event it was awarded the contract; that the Commission raised the legal question as to whether such offer of reduction could be accepted after the bids were opened, and submitted such question to the Attorney General for his advice; that the Attorney General advised the Commission that such supplemental offer could not be legally considered by the Commission, whereupon it was suggested in open meeting of the Commission that the Commission re-advertise the bids in order to get the benefit of the proposed discount; that instead of re-advertising the bids, the contracts were awarded to the Amer-

ican Book Company at the original amount of its bids without discount.

In view of the facts set forth in this paragraph, we find that a majority of said Textbook Commission, in making the adoptions which were made at the 1922 meeting, acting in disregard of the interests of the school children and tax payers and the people of the State at large; the Commission arbitrarily adopted these geographies at the highest bid without the offered discount of ten per cent. This ten per cent discount offered will amount to approximately \$100,000.00 loss to the school children on the first purchase, and some \$250,000.00 during the life of the contract; and that those acts constituted constructive fraud on the State of Texas, and abuse of discretion.

6. The committee finds that in no case did the Textbook Commission examine and approve any bond of any successful bidder at the meeting of the Commission in December, 1922, and that none of the bonds of successful bidders were ever filed with the Commission. There is no evidence direct and positive that said bonds were ever approved officially by anyone.

7. The committee finds that in no instance did the Textbook Commission ever inspect, examine or approve any contract made and entered into by and between the Commission on behalf of the State of Texas and any successful bidder at the meeting of the Commission in December, 1922. That the Commission adjourned sine die on December 9, 1922, at 11 o'clock a. m., and before any contract had been prepared and signed. That not more than one or two members of the Commission has ever seen any contract or bond made in pursuance of its awards in 1922 and the members of the Commission, except the chairman, are not and never have been familiar with the contents of such contracts and bonds, and do not know of their own personal knowledge that any bonds or contracts exist. That immediately prior to sine die adjournment, the Commission voted to authorize the chairman of the Commission to approve and sign all contracts awarded at said meeting. That none of the successful bidders ever filed their contracts with the Commission.

8. The committee finds that Sec-

tion 9 of the Textbook law provides among other things the following: "Each individual, firm or corporation submitting bids to the Commission for its consideration, or presenting books for adoption under the provisions of this Act, shall file with the Secretary of the State an affidavit giving the names of all people employed to aid in any way whatsoever in securing the contract." That one Elizabeth Loehninger appeared before the Commission in December, 1922, as a representative and employee of the American Book Company, to aid in procuring for said company contracts on books published by said company. That the American Book Company caused to be filed with the Secretary of State on December 5, 1922, after the bids had been opened, an affidavit made by William T. H. Howe, under date of November 27, 1922, wherein it is recited as follows: "That the names of all people employed to aid in any way in securing a contract for furnishing textbooks in the public free schools of the State of Texas, pursuant to the proclamation of the Governor, dated November 4, 1922, advertising for bids, are as follows: L. M. Dillman W. T. H. Howe, M. W. Lay, Lucille Smith, F. R. Adrien." That the name of said Elizabeth Loehninger was not included in said affidavit among the "people employed to aid in any way whatsoever in securing the contract."

9. That all members of the Textbook Commission substantially complied with the provisions of Section 2 of the Textbook Law by making and filing with the Secretary of State the affidavit required of each member of the Textbook Commission, except the chairman of the Commission, who did not make or file any such affidavit. That on the matter of adoption of geographies, the vote of the chairman was decisive of that question and was necessary to an adoption, by reason of which Books I. and II., "Essentials of Geography," by Brigham & McFarlane, published by American Book Company, were adopted.

10. Section 3 of the Textbook Law provides that "The Commission shall keep a minute book of its proceedings and on every action of the Commission an "aye" and "no" vote of the members thereof shall be required." The committee finds that at the meeting of the Commission in

December, 1922, no such vote was taken on any question except on the adoption of books; that on the question of the number of years for which a book should be adopted; on the question of rescission of the vote by which certain textbooks had previously been adopted by gradual introduction; on the question of fixing the amount of the bonds; on the question of attempted delegation of authority to the chairman to approve and sign contracts; on the question of the adoptions of a three book series or a two book series of geography, and on other actions of the Commission, no "aye" and "no" record vote was taken.

11. That when the Textbook Commission met in December, 1922, there were eighteen existing contracts for textbooks which by their terms would expire on August 31, 1923. In eleven instances new contracts were made and the books on hand discarded. In seven instances the books in use were continued. In addition to the eighteen contracts, a nineteenth contract was made for a third grade geography published by Rand, McNally & Company. That in each case of new contracts, renewals of contracts for books then in use could have been made at prices very materially less than the prices at which contracts were made for the new books. That in each case of new contracts, all old books on hand owned and used by the State were discarded; that the exchange allowance for such discarded books represented little if any benefit to the State because the cost of collecting, packing and shipping the discarded books to the depository nearly equaled, if it did not in some instances equal or exceed, such exchange allowance. That in some instances no exchange privileges had been granted, and in some of the new contracts made no exchange privilege was provided for. That the average life of a textbook is five years; that some of the discarded books had been in use one, two, three and four years and were not worn out. That when the Commission in 1922 opened and read the bids presented, it did not know and made no effort to ascertain the condition of the textbook market—whether said market prices on said books were declining, stationary or increasing. That the Commission did not know and made no effort to as-

certain whether or not the bids presented on any book were higher or lower than the price at which said book could be purchased either in large or small quantities in the open market. That the Commission did at its said meeting have the information that the American Book Company did then have in force in the State of Tennessee a contract covering "Essentials of Geography," by Brigham & McFarlane, Books I. and II., revised edition, at prices greatly below the bids made by said company on the same books to the Texas State Textbook Commission. That the cost of manufacturing said books and textbooks generally was not greater in December, 1922, than in the year 1919, the year in which Tennessee adopted said geographies. That in some instances the Commission in making adoptions in 1922 selected the highest bids presented, at the same time junking the books on hand. That the increased additional cost to the State for the first year, commencing September 1, 1923, by reason of the new adoptions, will be approximately \$1,500,000.00. The committee further finds that Section 4 of the Textbook Law provides that, "Before making any change in the adopted series, however, the Commission shall, upon thorough investigation, satisfy itself that a change is desirable in the interests of the children in the schools and in the interests of economy." That the words "and in the interests of economy" were added to the law by amendment of the Legislature in August, 1921, and said Commission was appointed about September and October of the same year. That said Commission did not make such thorough investigation as is required by said law. The committee finds that a great preponderance of the sentiment of teachers and school authorities in Texas was against making changes in the adopted series of textbooks at the time such changes were made by the Commission. That particularly in the case of arithmetics, the Commission was furnished with information, prior to making the change in 1922, reasonably indicating that a vast preponderance of the judgment of school authorities opposed any change and favored retention of the arithmetics then in use.

Conclusions of Law.

1. Section 1 of the textbook law contains the provision that "No legal representative or temporary employee or other special agent employed by any author or publisher shall be allowed to present the merits of a book to the Commission, individually or collectively, except as hereinafter defined, and any contract entered into by said Commission when so represented shall be void."

Section 26 of said law provides that "Any person not the author or publisher or the bona fide permanent and regular employee of such publisher who shall appear before such Textbook Commission in behalf of any book submitted to the Commission for adoption, or seek to influence the members thereof, or any author, publisher, bona fide permanent and regular employee of such publisher who seeks to influence the said Textbook Commission in the selection or adoption of any textbooks by appearing to the members of said Commission separately, or at any other time than when the Commission is in regular session or in any way violating any provision of this Act, shall be guilty of a misdemeanor, etc."

Section 28 of said law provides that "The State may at its election cancel any contract entered into by virtue of the provisions of this Act for fraud, or collusion, or material breach of contract upon the part of either party to the contract, or any member of the Commission, or any person, firm or corporation or their agents making said bond or contract; and for the cancellation of any such contract the Attorney General is hereby authorized to bring suit in the proper court of Travis County, etc."

The committee concludes, as a matter of law, that by reason of the violation of the express terms and provisions of the State Textbook Law, the contracts made by the Commission on behalf of the State with successful bidders at the meeting of the Commission in December, 1922, are void, and that the State of Texas is not and ought not to be in any manner bound thereby or liable thereunder.

2. It is the conclusion of the committee that the provisions of Section 2 of the State Textbook Law, requiring each member of the Commission to make and file with the Secretary of State the affidavit required, are mandatory, and constitute conditions precedent to the qualification of its agents, as members of the Commission, to make contracts for textbooks that will be binding upon the State of Texas. That it was the unmistakable intent of the Legislature by such requirements to declare a sound public policy in protection of the public interest, and that it cannot be bound and ought not to be bound by any contract made by any of its authorized agents who disregard or fail to comply with its clear and express injunctions and requirements.

3. That the provisions of Section 9 of the State Textbook Law, requiring "each individual, firm or corporation submitting bids to the Commission for its consideration, or presenting books for adoption under the provisions of this Act, shall file with the Secretary of State an affidavit giving the names of all people employed to aid in any way whatsoever in securing the contract," are likewise specific and mandatory and constitute conditions precedent to the making of a valid contract for textbooks with such person, firm or corporation. That by reason of the disregard of and failure strictly to comply with said provision of the law by the American Book Company, the two contracts made and entered into by and between said company and the State of Texas, each dated December 11, 1922, one covering Books I and II, "Essentials of Geography," by Brigham & McFarlane, and the other covering "Story Hour Reading Primer," "Story Hour Readers, Books I, II and III," and "Carpenter's Geographical Reader, New Europe," are each and both invalid and are not binding upon the State of Texas.

4. The committee concludes that the provisions of Section 13 of the State Textbook Law, requiring the Commission itself to approve bonds tendered by successful bidders are mandatory, and that compliance with said provisions is requisite to the making by the Commission of any contract for textbooks that will be

valid and binding upon the State. That Section 17 of said law imposes upon the Commission itself the duty also of approving the contracts when written. That said provision of the law is also mandatory and constitutes a condition precedent to the validity and binding force of such contract. The power to approve bonds and contracts of this nature is of the class that involves special skill, trusts, confidence and ability. The Commission is of the opinion that members of the Texas State Textbook Commission are officers of the State. Whenever contracts are required to be approved by designated officers, a contract is not binding upon the State until so approved, unless the requirement is merely directory. Permissive words in a statute are construed as mandatory when the exercise of the power granted is necessary to protect the public interest. The donee of a power in whose discretion special confidence is reposed cannot delegate its exercise to another. The law confers the power to approve bonds and contracts in adopting textbooks on the Commission, and only to the Commission. Prior to 1917, the Legislature had conferred that power upon the Governor, but in that year specifically, and purposely, and for reasons to it sufficient, the power was taken from the Governor and specially conferred upon the Commission. Power conferred upon a board or commission cannot be exercised by a single member of such body or by a minority unless ratified by a majority. As a general rule, where power to act is conferred on two or more, and it is dependent on their judgment whether such act shall be done, the power is a special confidence in their combined judgments, and a concurrence of all, or at least of a majority, is necessary to a valid exercise of the power. There is nothing in the State Textbook Law, in the judgment of the committee, which expressly or impliedly permits the Commission to delegate to any one of its members the power, duty and authority to approve bonds and contracts required in making adoption of textbooks. We believe that the clear intent of the Legislature on these matters, as evidenced by the law itself, as well as by the history

of textbook legislation in Texas, was to secure the combined judgment of many persons in the approval of bonds and contracts involving the expenditure of large sums of public funds as a matter of sound public policy and in protection of the public interest. Therefore, because the successful bidders on textbooks in 1922 did not present to the Commission their bonds and contracts for the consideration and approval, and because said bonds were never formally approved by the Commission, and because the Commission sought to delegate its power, duty and authority to approve said contracts to one of its members, the committee concludes that said contracts are invalid.

5. The provisions of Section 4 of the State Textbook Law repose in the Commission a wide discretion in selecting textbooks, the price the State shall pay therefor, and the period for which any book shall be adopted. The committee believes, however, that said section also clearly places limitations upon the Commission in the exercise of these discretionary powers and that there is a limit beyond which the Commission cannot go without abusing that discretion. Power conferred by a State upon an agent to expend public funds is in the nature of a power of attorney and must be strictly construed. Reckless or improvident disregard of the discretion reposed may be such as to amount to constructive fraud, and in such case it is sufficient to render the contract voidable. Section 4 of the law enjoins upon the Commission in making adoptions of textbooks, and particularly in making changes in the adopted series, two broad and general considerations: That a change is desirable (a) in the interests of the children in the schools, and (b) in the interests of economy. The latter consideration was specially made a part of the law in August, 1921. The various provisions of Section 4, in the judgment of the committee, compel the conclusion that it was the unmistakable intent of the Legislature that the Textbook Commission should give much consideration and weight to the question of economy, and that its acts shall be consistent with sound financial public policy and reflect good business judgment, to the end that waste and extravagance may be

reduced to a minimum and at the same time secure for the children of Texas textbooks of reasonable quality and merit. The committee believes that particularly in the case of geographies, the prices adopted by the Commission were excessive, unreasonable and unjustified, and represent profits to the publisher that are unwarranted as being at variance with and derogatory to the public interest.

Recommendations.

The Concurrent Resolution No. 4, under which your committee pursued its investigations, recites:

"Providing further, that if it is found that anything influenced the letting of such alleged contracts which would invalidate said alleged contracts, that such committee shall secure information from the Attorney General's Department as to the best method by which such alleged contracts may be cancelled and thereby save to the State of Texas this large sum of money if such investigation shall disclose that such alleged contracts were not justified."

The committee conferred with the Attorney General of Texas as to the best method of cancelling said contracts. That official was not at said time sufficiently informed as to what would be his official and legal duty in the premises and under the law should he be directed by the Legislature to take any action or institute any legal proceeding that would bring into question the validity of contracts made by a State agency.

Therefore, your committee makes the following recommendations:

1. That each and all officials of the State of Texas who are charged under the law in any manner with the duty of carrying into effect any of said alleged contracts, or with paying out or authorizing to be paid out any public moneys under or by virtue of said alleged contracts, should steadfastly refuse to take any action or do any thing whatsoever toward recognizing or enforcing the same or admitting their validity, or paying out or authorizing to be paid out any public moneys thereunder.

2. That the Attorney General of Texas in all ways within his power and by any and all means at his command shall uphold and defend any and all such officials in their failure or refusal to recognize or admit the

validity or binding effect of said alleged contracts, or to take any action or do any thing by virtue thereof, and in failing or refusing to pay out or authorizing to be paid out any public moneys thereunder.

3. That the Attorney General be directed to take such action, in or out of court, and institute and defend such suits, sue out such injunctions and other writs and things as shall in his judgment be best calculated to prevent carrying into execution by any official any of said alleged contracts, or any provision thereof, or the paying out of any public moneys thereunder, to the end that the State of Texas may be relieved of and from any and all responsibility or liability under any of such alleged contracts.

4. That the Attorney General of Texas be requested to advise the Legislature at once of his attitude in the premises, so that in the event he should not for any reason be able to comply with the direction of the Legislature, there shall be ample time remaining at the present called session for the Legislature to consider and determine upon ways and means of accomplishing the objects and purposes of these recommendations in the interests of the people of Texas.

Respectfully submitted,

Laird, chairman; Baldwin, secretary; P. G. Henderson, Price; Bonham, with reservation that evidence is in serious conflict as to difference in cost of new adoptions; Bowers, with exceptions as attached hereto; Darwin, Wirtz—Joint Legislative Textbook Investigating Committee.

I adopt the foregoing report of the joint textbook investigation committee with the following exceptions:

1. In paragraphs 1 and 2 of said report I concur, with this additional, that the textbook companies who lost contracts at the 1922 meeting were just as busy talking to the members of the textbook commission and sending them briefs, letters and other information to influence them as did the textbook companies who got the new contracts. I want to go on record in saying that I believe that textbook companies in Texas are taking too much stock in politics and using too many ways of influencing members of the Textbook Commission. In this connection I want to say that I do not believe any member of the Textbook Commission was

guilty of an act of fraud, collusion or undue influence in the selection of said books.

1. (a) In paragraph 6, it is my opinion that the Textbook Commission authorized the Chairman of said Commission to approve the bonds and that the chairman did approve said bonds.

2. In paragraph 11 of said report I cannot agree that the increased additional cost to the State for the first year commencing Sept. 1st 1923 by reason of the new adoptions will be approximately \$1,500,000.00 for the reason that this is a sharply controverted fact; a real truth of which depends upon the number of old contract books that would have to be bought during the year beginning Sept. 1st, 1923. I do not say that it might not be \$1,500,000, but, it might be considerably less. If we consider this matter for a period of five years which is a correct way to consider it the loss to the State would be a very small matter, just as you would buy a pair of shoes that would last ten months and undertake to say that the whole price of said shoes should be considered as paid for the first month said shoes were used; if said cost is distributed over a period of ten months instead on one month the difference would be apparent. I think this illustration would apply to the textbook question; if the amount spent for new textbooks is distributed over a five year period it makes a difference.

3. I do not agree to the conclusions of law as set out by said committee in paragraphs 1, 2, 3, 4 and 5. Said conclusions may be correct but I do not feel that this committee is called upon to make conclusions of the law in this matter and for that reason I do not join with them in said conclusions of law.

4. I join in the recommendations made by the committee but I want to make the following additional recommendations:

(a) After hearing this whole matter I am convinced that the free textbook law should be bodily repealed and that the next Legislature should submit an amendment to the constitution repealing said Act. From all the evidence I have been able to get this State is absolutely swamped with textbooks that have been paid for out of the money that should be used to carry on our public schools and it is my honest belief that there are

enough textbooks in Texas that have not been used to carry on our schools for five years. Any law that causes such conditions should be repealed.

(b) The textbook law should be amended so that the Governor of Texas shall at the beginning of his term every two years appoint the Textbook Commission on his own responsibility; and that of said seven, three be teachers, two attorneys, and two business men, three of whom may be women. This would place all the responsibility upon the Governor and would in my opinion be the best way to select this commission. In saying this I do not cast any reflection whatever upon the present way of selecting said commission.

(c) I believe there are sufficient geographies and arithmetics now on hand in the State of Texas, practically all of them new that have never been used, that have been paid for; and the State Superintendent should be instructed that in case the contracts for the new books are set aside, that for the next year, at least, no part of the textbook money should be used to purchase any of the old geographies or arithmetics for the schools during the year beginning Sept. 1, 1923, and that no new books, of the old contracts, be purchased by the State of Texas until after the new Textbook Commission shall meet and either re-adopt the old contracts or make new ones.

R. S. BOWERS.

On motion of Senator Wirtz the report was adopted.

S. R. No. 32.

By Senators Wirtz and Darwin:

Be it Resolved by the Senate of the State of Texas:

Whereas, The Joint Legislative Committee appointed in pursuance of House Concurrent Resolution No. 4 adopted at the Regular Session of the Thirty-eighth Legislature to make investigation into the matter of awarding of text-book contracts in December, 1922, by the Texas State Textbook Commission, did, on the fourth day of May, 1923, officially file report of this investigation, wherein it made recommendations to the Legislature with reference to said text-book contracts, which recommendations are as follows, to-wit:

1. That each and all officials of the State of Texas who are charged under the law in any manner with the duty

of carrying into effect any of said alleged contracts, or with paying out or authorizing to be paid out any public moneys under or by virtue of said alleged contracts, should steadfastly refuse to take any action or do anything whatsoever toward recognizing or enforcing the same or admitting their validity, or paying out or authorizing to be paid out any public moneys thereunder.

2. That the Attorney General of Texas in all ways within his power and by any and all means at his command, shall uphold and defend any and all such officials in their failure or refusal to recognize or admit the validity or binding effect of said alleged contracts, or to take any action or do anything by virtue thereof, and in failing or refusing to pay out or authorizing to be paid out any public moneys thereunder.

3. That the Attorney General be directed to take such action, in or out of court, and institute and defend such suits, sue out such injunctions and other writs and things as in his judgment shall be best calculated to prevent carrying into execution by any official, any of said alleged contracts, or any provisions thereof, or the paying out of any public moneys thereunder, to the end that the State of Texas may be relieved of and from any responsibility or liability under any of such alleged contracts.

4. That the Attorney General of Texas be requested to advise the Legislature at once of his attitude in the premises, so that in the event he should not for any reason be able to comply with the direction of the Legislature, there shall be ample time remaining at the present Called Session for the Legislature to consider and determine upon ways and means of accomplishing the objects and purposes of these recommendations in the interest of the people of Texas.

Whereas, The report of said Joint Committee including the foregoing recommendations was duly adopted by the Senate of the State of Texas; now, therefore, be it

Resolved, By the Senate of the State of Texas, that each and every person holding official position in Texas, who is in any manner charged with the duty of administering the Texas State Text-book Law, or whose duty it is in any manner to carry into effect the provisions of any of the contracts for text-books made by the Texas State Text-book Commission in December, 1922, and any and all officials whose

duty it is or may become to pay out or authorize to be paid out any moneys under and by virtue of said mentioned contracts be and they are hereby instructed and directed to take official notice of the report made by said Joint Legislative Text-book Investigating Committee, and of the recommendations made by the said committee and set forth in this resolution, and that they be and are hereby instructed to comply with said recommendations in the interests of the people of Texas.

That the Secretary of the Senate be and he is hereby instructed to make certified copies of this resolution, and to deliver an official copy hereof to the Governor of Texas, the Attorney General, the Superintendent of Public Instruction, the State Treasurer, and the Comptroller.

That the Attorney General be and he is hereby requested to advise the Senate officially, as soon as possible, what his attitude will be with reference to compliance with the recommendations of said committee as adopted by the Senate, to the end that should he for any reason be unable to comply with said recommendations and this resolution, there shall be ample time remaining at the present Called Session of the Legislature for the Senate to consider and determine upon ways and means of carrying into effect the recommendations of said Joint Committee.

The resolution was read and adopted.

H. B. No. 25 on Second Reading.

(Special Order.)

The Chair laid before the Senate as special order, on its second reading,

H. B. No. 25, A bill to be entitled "An Act amending Sections 1 and 2 of Chapter 78, General Laws, Second Called Session, Thirty-sixth Legislature, as amended by Chapter 61 of the General Laws, First Called Session, Thirty-seventh Legislature, making it unlawful for any person, directly or indirectly, to possess or receive for the purpose of sale, or to manufacture, sell, barter, exchange, transport, export, deliver, take orders for, solicit or furnish spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, or any other intoxicant whatever, or to possess, receive, manufacture, or knowingly sell, barter, exchange, transport, export, deliver, take orders for, solicit or furnish any equipment, still, mash, mate-

rial, supplies, device or other thing for manufacturing, selling, bartering, exchanging, transporting, exporting, delivery, taking orders for, soliciting or furnishing any such liquors, intoxicants or beverages, and making it unlawful for any person, directly or indirectly, to possess, or receive for the purpose of sale, or to manufacture, sell, barter, exchange, transport, export, deliver, take orders for, solicit or furnish spirituous, vinous or malt liquors or medicated bitters, or any potable liquor, mixture or preparation containing in excess of one per cent of alcohol by volume, or to possess, receive, manufacture or knowingly sell, barter, exchange, transport, export, deliver, take orders for, solicit or furnish any equipment, still, mash, material, supplies, device or other thing for manufacturing, selling, bartering, exchanging, transporting, exporting, delivering, taking orders for, soliciting or furnishing any such liquors, intoxicants or beverages; and be further amended by adding thereto Section 2, making proof of possession of mash, or of a still or any device for manufacturing intoxicating liquors, or proof of the possession of more than one quart of intoxicating liquors prima facie evidence of guilt wherever possession or receipt, or possession or receipt for the purpose of sale, is made unlawful by this Act; and amending Chapter 78, General Laws, Second Called Session, Thirty-sixth Legislature, by adding Section 35a, with reference to seizure and destruction of the vehicles and instrumentalities used for the violation of the liquor laws of this State, and declaring an emergency."

The bill was read second time.

Senator Burkett offered the following amendment to the bill:

Amend H. B. No. 25, page 2, by striking out the word "transport," line 30, and insert the word "transport" between the words "possess and or," in line 29 of the bill.

The amendment was adopted.

Senator Burkett offered the following amendment to the bill:

Amend H. B. No. 25, page 3, by striking out of line 9, the word "transport," and insert the word "transport" between the words "possess and or," in line 8.

The amendment was adopted.

(Senator Lewis in the Chair.)

Senator Wirtz offered the following amendment to the bill:

Amend H. B. No. 25 by striking out of page 3, lines 28 and 29, the words "or proof of the possession of more than one quart of intoxicating liquors."

Senator Bowers moved to table the amendment.

Yeas and nays were demanded and the motion to table prevailed by the following vote:

Yeas—15.

Baugh.	Ridgeway.
Bledsoe.	Strong.
Bowers.	Thomas.
Cousins.	Turner.
Floyd.	Witt.
Lewis.	Wood.
Pollard.	Woods.
Rice.	

Nays—10.

Burkett.	Murphy.
Clark.	Parr.
Davis.	Rogers.
Fairchild.	Watts.
McMillin.	Wirtz.

Absent.

Holbrook. - Stuart.

Absent—Excused.

Bailey.	Doyle.
Darwin.	

Senator Darwin offered the following amendment to the bill:

Amend H. B. No. 25, page 4, by striking out the following:

Beginning with the word "less," in line 16, and all down to and including line 21.

The amendment was adopted.

Senator Murphy offered the following amendment to the bill:

Amend H. B. No. 25, page 4, line 11, by inserting between the words "officer" and the word "and" the following: "which officer shall within twenty-four hours after such seizure file with the county clerk a detailed statement of the time when, the place where and the circumstances under which he seized such property and shall appraise the value thereof and the claimant of said property or the owner thereof shall have the right to have the possession of said property and returned to him immediately upon the execution and delivery to the county clerk

of a good and sufficient bond signed by two sureties or a surety bond of a bonding company approved by the county clerk, and if the officer making such seizure shall fail to make such a report and appraisal of the value of said property and file the same with the county clerk within twenty-four hours after such seizure thereof, he shall be guilty of a misdemeanor punishable by fine not exceeding five hundred (\$500.00) dollars."

Senator Wirtz offered the following amendment to the amendment:

Amend the amendment to H. B. No. 25 by adding to the amendment the following: "In the event the property seized is not replevied, same shall be stored in a bonded warehouse. Provided, that if there is not a bonded warehouse in the county where such property is seized then such property shall, under the direction of the district judge having jurisdiction, be stored in a safe place and be safely kept in good condition to abide the final judgment of the proper court with reference thereto; the fees for storage to be taxed as costs in any proceeding for condemnation on recovery of said property."

The amendment to the amendment was adopted, and the amendment as amended was then adopted.

Senator Burkett offered the following amendments to the bill:

(1)

Amend the caption to H. B. No. 25, page 1, line 23, by striking out the word "transport" and inserting the word "transport" in line 22, after the word "possess."

(2)

Amend the caption to H. B. No. 25, page 2, line 2, by striking out the word "transport" and inserting the word "transport" in line 1, after the word "possess."

The amendments were adopted.

Senator Floyd offered the following amendment to the bill:

Amend H. B. No. 25, on page 4, line 24, by striking out the words "Five Dollars" and insert in lieu thereof the words "Ten Dollars."

Senator Fairchild moved to table the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

Yeas—6.

Cousins.	Parr.
Fairchild.	Watts.
Murphy.	Wirtz.

Nays—18.

Baugh.	Rice.
Bledsoe.	Ridgeway.
Bowers.	Strong.
Burkett.	Stuart.
Davis.	Thomas.
Floyd.	Turner.
Lewis.	Witt.
McMillin.	Wood.
Pollard.	Woods.

Present—Not Voting.

Rogers.

Absent.

Clark.

Holbrook.

Absent—Excused.

Bailey.

Doyle.

Darwin.

The amendment was then adopted.

(President Pro Tem Murphy in the Chair.)

Senator Burkett offered the following amendment to the bill:

Amend H. B. No. 25, page 4, line 12, by striking out the first three words, "the district court," and inserting the following: "A court of competent jurisdiction."

The amendment was lost.

Senator Fairchild offered the following amendment to the bill:

Amend H. B. No. 25, page 4, line 23, by striking out "fifteen dollars" and inserting in lieu thereof "five dollars."

Yeas and nays were demanded and the amendment was lost by the following vote:

Yeas—8.

Cousins.	Parr.
Fairchild.	Pollard.
Holbrook.	Rogers.
Murphy.	Watts.

Nays—16.

Baugh.	Lewis.
Bledsoe.	McMillin.
Bowers.	Rice.
Davis.	Ridgeway.

Strong.	Wirtz.
Stuart.	Witt.
Thomas.	Wood.
Turner.	Woods.

Absent.

Burkett.	Floyd.
Clark.	

Absent—Excused.

Bailey.	Doyle.
Darwin.	

Senator Thomas offered the following amendment to the bill:

Amend H. B. No. 25 by adding thereto Section 35b, page 4, to read as follows: "Wherever there shall be an arrest and conviction for any offense herein defined the sheriff or other officer making the arrest shall in addition to their fess allowed by law receive the sum of \$25 for his services."

Senator Fairchild offered the following amendment to the amendment:

Amend the amendment to H. B. No. 25 by adding "that the district judge, the district clerk and each juror shall have \$25 each for their services in each case."

Senator Bowers moved to table the amendment to the amendment:

Yeas and nays were demanded and the motion to table prevailed by the following vote:

Yeas—18.

Baugh.	Rice.
Bledsoe.	Ridgeway.
Bowers.	Strong.
Burkett.	Stuart.
Cousins.	Thomas.
Floyd.	Turner.
Lewis.	Witt.
McMillin.	Wood.
Pollard.	Woods.

Nays—9.

Bailey.	Murphy.
Clark.	Parr.
Davis.	Rogers.
Fairchild.	Wirtz.
Holbrook.	

Absent.

Watts.

Absent—Excused.

Darwin.	Doyle.
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Question: Shall the amendment by Senator Thomas be adopted?

S. B. No. 54—House Amendments Concurred in.

Senator Bailey called up S. B. No. 54 and moved that the Senate concur in the following amendments:

1st. Amend S. B. No. 54, Sec. 2, page 2, line 6, by inserting after the word "taxes" the following: "That Wharton County comprising one district, and that portion of Matagorda County embracing Commissioners' Precincts Nos. 1, 2, and 4, comprising another district, shall each be organized into a conservation and reclamation district and".

2nd. Amend S. B. No. 54, Section 2, page 2, line 22, by striking out the word "and" following the word "bonds" and inserting in lieu thereof the word "the."

Amend the caption by inserting after the word "calamities," in line twelve (12) the following: "and providing for the reversion of the taxes to the State if said bonds are paid before the expiration of twenty-five (25) years."

The Chair laid the bill before the Senate, and the House amendments were concurred in by the following vote:

Yeas—27.

Bailey.	Parr.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Rogers.
Burkett.	Strong.
Clark.	Stuart.
Cousins.	Thomas.
Davis.	Turner.
Fairchild.	Watts.
Floyd.	Wirtz.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Murphy.	

Absent.

Ridgeway.

Absent—Excused.

Darwin.	Doyle.
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**S. C. R. No. 14—House Amendments
Concurred in.**

Senator Cousins called up S. C. R. No. 14 and moved that the Senate concur in the following amendments:

Amend S. C. R. No. 14 by striking out the last paragraph thereof, beginning with the word "resolved" on page two, and insert in lieu thereof: "Resolved by the Senate of the 38th Legislature, the House of Representatives concurring, That the Governor and Prison Commission be, and are hereby requested and directed to extend the date of maturity of said notes from their present maturity dates to September 16, 1926, and upon the execution by the proper parties of a mortgage lien upon the property conveyed by the Prison Commission to L. F. Featherstone by deed dated March 16th, 1920, said mortgage lien to provide that no property included in said mortgage lien shall be sold or transferred except upon approval of the Governor and Prison Commission; and conditioned further upon the prompt payment of all interest upon said notes as same accrues and becomes payable annually; and conditioned further upon the said sureties upon said bonds or notes executed and delivered to the Prison Commission, executing an instrument in writing consenting and agreeing to the aforesaid extension; and it being expressly stipulated that the aforesaid extension shall not be granted except upon full compliance with the foregoing conditions and shall not release the sureties on the original obligations; and provided such extension agreement shall be prepared and approved by the Attorney General of the State of Texas."

On motion of Senator Cousins, the House amendments were concurred in.

Recess.

On motion of Senator Strong, the Senate at 12:05 p. m. recessed until 2:30 p. m. today.

Afternoon Session.

The Senate met at 2:30 p. m. and was called to order by President Pro Tem Charles Murphy.

Executive Session—Time Set.

Senator Bailey moved that the Senate go into executive session on next Monday morning at 11 o'clock for the purpose of consideration of appointments made and yet to be made by the Governor.

The motion prevailed.

**H. B. No. 25 on Passage to Third
Reading.**

(Special Order.)

The Chair laid before the Senate, as special order and pending business, on its passage to third reading, H. B. No. 25, amending the prohibition laws, with amendment by Senator Thomas pending.

(Senator Clark in the Chair.)

On motion of Senator Bowers, the amendment was tabled.

(Senator Murphy in the Chair.)

Senator Burkett offered the following amendment to the bill:

Amend H. B. No. 25, page 4, line 5, by inserting after the word "Section 35" the following: "Any animal, automobile, flying machine, airplane, boat, ship or other vehicle or instrumentality used for the unlawful transportation or storage of intoxicating liquor, as defined in Sections 1 and 2 of this Act, is hereby declared to be a public nuisance."

The amendment was adopted.

Senator Burkett offered the following amendment to the bill:

Amend H. B. No. 25, page 4, line 25, by placing a "period" after the word "county" and striking out the following: "And to be retained by the officer without accounting for it, for over and above their maximum fees."

The amendment was adopted.

Senator Wirtz offered the following amendment to the bill:

Amend H. B. No. 25, page 4 of the printed bill, line 10, by striking out of said line the words, "without warrant."

On motion of Senator Bowers, the amendment was tabled.

House bill No. 25 was then passed to third reading.

H. B. No. 25 on Third Reading.

On motion of Senator Bowers, the constitutional rule requiring bills to be read on three several days in each House was suspended, and H. B. No. 25 was put on its third reading and final passage by the following vote:

Yeas—25.

Bailey.	Pollard.
Baugh.	Rice.
Bledsoe.	Ridgeway.
Bowers.	Rogers.
Burkett.	Strong.
Clark.	Thomas.
Cousins.	Turner.
Davis.	Watts.
Floyd.	Wirtz.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Parr.	

Nays—1.

Murphy.

Absent.

Fairchild.

Stuart.

Absent—Excused.

Darwin.

Doyle.

The Chair then laid H. B. No. 25 before the Senate on its third reading and final passage.

The bill was read third time and passed.

H. B. No. 20 on Second Reading.

The Chair laid before the Senate as regular order, on second reading,

H. B. No. 20, A bill to be entitled "An Act providing that any hotel or boarding house or other place to which the people resort for board or lodging and which place repeatedly permits employees or guests to make, sell or give away intoxicating liquor or permits parties to drink intoxicating liquors to excess, or permits gambling or prostitution, shall be declared a nuisance to be abated by the courts; and providing that when such acts are repeatedly committed by guests or employees that fact shall be prima facie evidence that the proprietors, managers or those in charge have knowledge of same, and unless controverted shall be grounds for issuing an order of

injunction; and providing that it shall not be necessary to prove that such conditions obtain at the time of the sitting of the court, but only that the material allegations are true, and declaring an emergency."

The bill was read second time.

Senator Bailey offered the following amendments to the bill at the request of Senator Doyle, who is absent:

(1)

Amend H. B. No. 20, page 2, line 21, Section 2, by placing a "period" after the word "same" and striking out the remainder of said line, all of lines 22, 23, 24 and the word "house" in line 25.

(2)

Amend H. B. No. 20, page 3, Section 4, by striking out all in line 1 after the word "whenever" and including the word "or" in said line.

On motion of Senator Strong, the amendments were tabled.

Senator Bailey offered the following amendment to the bill, at the request of Senator Doyle:

Amend H. B. No. 20, page 3, line 16, by striking out the words "at Austin, Texas," and insert in lieu thereof the following: "at the county seat of the county where such nuisance is alleged to exist."

The amendment was adopted.

Senator Bailey offered the following amendment to the bill, at the request of Senator Doyle:

Amend H. B. No. 20, page 3, line 20, Section 4, by striking out all in said line after the word "Texas" and all of line 21, and insert in lieu thereof the following: "in the district court of the county where the conditions of such bond is violated, all such suits to be brought by the district or county attorney of such county."

Yeas and nays were demanded, and the amendment was adopted by the following vote:

Yeas—13.

Bailey.	Parr.
Burkett.	Pollard.
Clark.	Thomas.
Cousins.	Watts.
Davis.	Wirtz.
Floyd.	Woods.
Murphy.	

Nays—11.

Baugh.	Bowers.
Bledsoe.	Lewis.

McMillin. Stuart.
Rice. Turner.
Ridgeway. Wood.
Rogers.

Absent.

Fairchild. Witt.
Holbrook.

Absent—Excused.

Darwin.

(Pair Recorded.)

Senator Strong (present), who would vote nay; with Senator Doyle (absent), who would vote yea.

Senator Burkett offered the following amendment to the bill:

Amend H. B. No. 20, page 2, line 4, by inserting after the word "lodging" the following: "or commonly congregate for business or pleasure."

The amendment was adopted.

H. B. No. 20 was then passed to third reading.

H. B. No. 20 on Third Reading.

On motion of Senator Strong, the constitutional rule requiring bills to be read on three several days in each House was suspended, and H. B. No. 20 was put on its third reading and final passage by the following vote:

Yeas—23.

Baugh. Ridgeway.
Bledsoe. Rogers.
Bowers. Strong.
Burkett. Stuart.
Cousins. Thomas.
Davis. Turner.
Lewis. Watts.
McMillin. Wirtz.
Murphy. Witt.
Parr. Wood.
Pollard. Woods.
Rice.

Nays—3.

Bailey. Floyd.
Clark.

Absent.

Fairchild. Holbrook.

Absent—Excused.

Darwin. Doyle.

The Chair then laid H. B. No. 20 before the Senate on its third reading and final passage.

The bill was read third time. Senator Burkett offered the following amendment to the bill:

Amend caption to H. B. No. 20, line 21, by inserting after the word "lodging" the following: "or commonly congregate for business or pleasure."

The amendment was adopted.

The question then recurred on the final passage of the bill.

Yeas and nays were demanded, and the bill was finally passed by the following vote:

Yeas—20.

Baugh. Ridgeway.
Bledsoe. Rogers.
Bowers. Strong.
Burkett. Stuart.
Davis. Thomas.
Floyd. Turner.
Lewis. Watts.
McMillin. Witt.
Pollard. Wood.
Rice. Woods.

Nays—5.

Bailey. Parr.
Clark. Wirtz.
Murphy.

Absent.

Cousins. Holbrook.
Fairchild.

Absent—Excused.

Darwin. Doyle.

S. B. No. 106 on Second Reading.

On motion of Senator Rogers, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 106 was put upon its second reading and passage to engrossment by the following vote:

Yeas—26.

Bailey. McMillin.
Baugh. Murphy.
Bledsoe. Parr.
Bowers. Pollard.
Burkett. Rice.
Clark. Ridgeway.
Cousins. Rogers.
Davis. Strong.
Floyd. Stuart.
Lewis. Thomas.

Turner. Witt.
Watts. Wood.
Wirtz. Woods.

Absent.

Fairchild. Holbrook.

Absent—Excused.

Darwin. Doyle.

The Chair then laid before the Senate, on its second reading,

S. B. No. 106, A bill to be entitled "An Act to amend Title 5, Article 30, paragraphs 15 and 59, of the Revised Civil Statutes of Texas of 1911, which article provides for judicial districts of the State; and which paragraph 15 defines the Fifteenth Judicial District and determines the date and length of term of such district court in Grayson County and which paragraph 59 defines the Fifty-ninth Judicial District and determines the date and length of term of such district court in each of the counties of said district, namely, Grayson and Collin Counties; and which amendment provides for a change in the terms and time of holding court in each of said judicial districts, and declaring an emergency."

The bill was read second time.

On motion of Senator Rogers, the Senate rule requiring committee reports to lie over 24 hours was suspended by unanimous consent, and the committee report that it be not printed was adopted.

S. B. No. 106 was then passed to engrossment.

S. B. No. 106 on Third Reading.

On motion of Senator Rogers, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 106 was put upon its third reading and final passage by the following vote:

Yeas—26.

Bailey.	Lewis.
Baugh.	McMillin.
Bledsoe.	Murphy.
Bowers.	Parr.
Burkett.	Pollard.
Clark.	Rice.
Cousins.	Ridgeway.
Davis.	Rogers.
Floyd.	Strong.

Stuart. Wirtz.
Thomas. Witt.
Turner. Wood.
Watts. Woods.

Absent.

Fairchild. Holbrook.

Absent—Excused.

Darwin. Doyle.

The Chair then laid S. B. No. 106 before the Senate on its third reading and final passage.

The bill was read third time and passed.

H. B. No. 11 on Second Reading.

The Chair laid before the Senate as regular order, on second reading,

H. B. No. 11, A bill to be entitled "An Act to provide a more efficient method for the collection of delinquent taxes on land; providing compensation for the county attorney and other officials for service rendered in collecting such taxes; further providing for the employment of a special attorney to assist in collecting such taxes, amending Section 1 of Chapter 147 of the Acts of the Regular Session of the Thirty-fourth Legislature as amended by Section 1 of Chapter 64 of the General Laws passed at the Second Called Session of the Thirty-sixth Legislature, amending Section 2 of Chapter 147 of the General Laws of the State of Texas passed at the Regular Session of the Thirty-fourth Legislature; amending Articles 7688, 7689, 7691, 7692, 7696, 7699; repealing Article 7687 of the Revised Civil Statutes of the State of Texas of 1911, and Section 3, Chapter 147, of the General Laws of the State of Texas, passed at the Regular Session of the Thirty-fourth Legislature as amended by Section 2, Chapter 64, of the General Laws of the State of Texas passed by the Second Called Session of the Thirty-sixth Legislature; adding to Chapter 13 of Title 126 of the Revised Statutes of Texas of 1911, a new article to be known as Article 7689a, limiting the defenses that may be urged in defense of a suit for delinquent taxes; repealing all laws in conflict with the provisions of this Act, and declaring an emergency."

The bill was read second time, and on motion of Senator Burkett was laid on table subject to call.

H. B. No. 33 on Second Reading.

The Chair laid before the Senate as regular order, on second reading.

H. B. No. 33, A bill to be entitled "An Act making it an offense to drive an automobile or any motor driven vehicle upon the streets of any incorporated city, town or village or upon the public highways under the influence of intoxicating liquor, and declaring an emergency."

The bill was read second time, and passed to third reading.

H. B. No. 33 on Third Reading.

On motion of Senator Strong the constitutional rule requiring bills to be read on three several days in each House was suspended, and H. B. No. 33 was put on its third reading and final passage by the following vote:

Yeas—24.

Baugh.	Rice.
Bledsoe.	Ridgeway.
Bowers.	Rogers.
Burkett.	Strong.
Clark.	Stuart.
Davis.	Thomas.
Floyd.	Turner.
Lewis.	Watts.
McMillin.	Wirtz.
Murphy.	Witt.
Parr.	Wood.
Pollard.	Woods.

Nays—1.

Bailey.

Absent.

Cousins. Holbrook.
Fairchild.

Absent—Excused.

Darwin. Doyle.

The Chair then laid H. B. No. 33 before the Senate on its third reading and final passage.

Senator Wood offered the following amendment to the bill:

Amend H. B. No. 33 by striking out the figures "\$100.00" wherever it occurs in the bill and insert in lieu thereof the following: "\$25.00".

On motion of Senator Fairchild, the bill was laid on the table subject to call.

H. B. No. 34 on Second Reading.

The Chair laid before the Senate as regular order, on second reading.

H. B. No. 34, A bill to be entitled "An Act making it a felony for any person to carry on or about his person while violating the liquor laws any weapon or arm mentioned in Article 475 of the Penal Code; prescribing the penalty, and declaring an emergency."

The bill was read second time, and on motion of Senator Woods, was laid on the table subject to call.

H. B. No. 69 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading.

H. B. No. 69, A bill to be entitled "An Act extending oil and gas permits on lands which are now or have been in the possession or under the control of the Federal receiver appointed by the Supreme Court of the United States for such periods of time, respectively, as such lands have been or may be in such receiver's possession or under his control, and declaring an emergency."

The bill was read second time, the committee report that it be not printed was adopted, and it was passed to third reading.

H. B. No. 108 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading.

H. B. No. 108, A bill to be entitled "An Act creating the Frost Independent School District in Navarro County, Texas; defining its boundaries, including the present Common School District No. 60; providing for a board of trustees in said district, conferring upon said district and its board of trustees all the rights, powers, privileges and duties now conferred and imposed by the general laws upon independent school districts and the boards of trustees thereof; providing that the management and control of the public free schools of said district shall be vested in a board of trustees composed of seven persons, and providing for the

election and qualification of said trustees; providing for the assumption by said district of the outstanding bonded indebtedness heretofore voted in Frost Common School District No. 60; providing for the appointment of a tax assessor and collector and board of equalization for said district, and declaring an emergency."

The bill was read second time, the committee report that it be not printed was adopted, and passed to third reading.

H. B. No. 108 on Third Reading.

On motion of Senator Woods, the constitutional rule requiring bills to be read on three several days in each House was suspended, and H. B. No. 108 was put upon its third reading and final passage by the following vote:

Yeas—26.

Bailey.	Pollard.
Baugh.	Rice.
Bledsoe.	Ridgeway.
Bowers.	Rogers.
Burkett.	Strong.
Cousins.	Stuart.
Davis.	Thomas.
Fairchild.	Turner.
Floyd.	Watts.
Lewis.	Wirtz.
McMillin.	Witt.
Murphy.	Wood.
Parr.	Woods.

Absent.

Clark. Holbrook.

Absent—Excused.

Darwin. Doyle.

The Chair then laid H. B. No. 108 before the Senate on its third reading and final passage.

The bill was read third time and passed.

S. B. No. 41 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 41, A bill to be entitled "An Act amending statutes relative to elections, general and primary, and the requirements of poll tax receipts; amending Article 2949 of the Revised Civil Statutes of the

State of Texas of 1911, requiring poll tax receipts to show the name of the political party to which the person to whom it is issued belongs; amending Article 2950 of the Revised Civil Statutes of the State of Texas of 1911, requiring that every poll tax receipt form shall show the political party to which the person to whom such receipt is issued belongs; amending Article 2953 of the Revised Civil Statutes of the State of Texas of 1911, requiring that exemption certificates shall state the name of the political party to which the person procuring such certificate belongs; amending Article 2956 of the Revised Civil Statutes of the State of Texas of 1911, requiring duplicate copy of poll tax receipt and certificates of exemption to show the name of the political party of the person to whom such receipt or certificate of exemption is issued; amending Article 2961 of the Revised Civil Statutes of the State of Texas of 1911, requiring that lists of poll tax payers show the name of the political party to which each of such tax payers belongs; providing a new section to be numbered 2961a, providing that during the month of April in any year voters may change their party affiliations and requiring a record be kept of such changes and requiring further that a list of voters changing party affiliations shall be furnished presiding judges of all party primary elections; amending Article 3116 of the Revised Civil Statutes of the State of Texas of 1911, by providing that the list of voters used in the primary elections shall show the name of the political parties to which such voters belong, respectively; and providing that persons who have declared themselves to belong to one political party shall not be allowed to vote in a primary election of any other party; amending Article 4118 of the Revised Civil Statutes of the State of Texas of 1911, by providing that the same precautions provided by law to secure the purity of ballot box of general elections shall in all respects apply to primary elections."

The bill was read third time.

Senator Floyd moved to postpone further consideration of the bill indefinitely.

Yeas and nays were demanded, and the motion to postpone indefinitely prevailed by the following vote:

Yeas—15.

Bailey.	Murphy.
Bledsoe.	Rice.
Burkett.	Rogers.
Clark.	Strong.
Davis.	Watts.
Fairchild.	Wirtz.
Floyd.	Witt.
Holbrook.	

Nays—11.

Baugh.	Stuart.
Bowers.	Thomas.
Lewis.	Turner.
McMillin.	Wood.
Pollard.	Woods.
Ridgeway.	

Absent.

Cousins.

Absent—Excused.

Doyle.

(Pair Recorded.)

Senator Parr (present), who would vote yea; with Senator Darwin (absent), who would vote nay.

S. B. No. 50 on Engrossment.

The Chair laid before the Senate as pending business, S. B. No. 50, relating to the consolidation of various State departments, which was read second time on yesterday, with amendment by Senator Cousins pending.

Senator Cousins withdrew the amendment.

Senator Parr offered the following amendment to the bill:

Amend S. B. No. 50 by striking out the words "Live Stock Sanitary Commission" wherever they appear.

On motion of Senator Baugh, the bill was laid on the table subject to call.

H. C. R. No. 9.

The Chair laid before the Senate H. C. R. No. 9, relating to investigation of oil business in Texas by a joint committee of the two Houses.

The resolution was read.

Senator Bailey moved to lay the resolution on the table subject to call.

Yeas and nays were demanded, and the motion to lay on the table prevailed by the following vote:

Yeas—14.

Bailey.	McMillin.
Baugh.	Parr.
Bledsoe.	Rice.
Bowers.	Turner.
Cousins.	Watts.
Davis.	Wirtz.
Lewis.	Woods.

Nays—13.

Burkett.	Rogers.
Clark.	Strong.
Fairchild.	Stuart.
Floyd.	Thomas.
Holbrook.	Witt.
Murphy.	Wood.
Pollard.	

Absent.

Ridgeway.

Absent—Excused.

Darwin.

Doyle.

S. B. No. 61 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 61, A bill to be entitled "An Act amending Articles 4521 and 4522 of the Revised Civil Statutes, relating to the State Board of Health and the State Health Department; providing for the State Board of Health to be composed of seven licensed physicians, which Board shall have power to appoint the State Health Officer; prescribing the salary of the State Health Officer and the respective authority of the State Health Officer and the State Board of Health; prescribing the compensation of the members of the State Board of Health, the State Health Officer and the heads of bureaus in the State Health Department; enacting provisions to improve the State Health Department; and declaring an emergency."

The bill was read third time.

Senator Clark moved to reconsider the vote by which the bill passed to engrossment, and the motion to reconsider prevailed.

Question: Shall the bill be passed to engrossment.

Senator Clark moved to reconsider the vote by which the first amendment, relating to members of Health Board, offered by Senator Woods on yesterday, was adopted.

Yeas and nays were demanded, and the motion to reconsider prevailed by the following vote:

Yeas—21.

Bailey.	McMillin.
Baugh.	Parr.
Bledsoe.	Pollard.
Bowers.	Stuart.
Burkett.	Thomas.
Clark.	Turner.
Cousins.	Watts.
Davis.	Wirtz.
Fairchild.	Witt.
Holbrook.	Wood.
Lewis.	

Nays—6.

Murphy.	Rogers.
Rice.	Strong.
Ridgeway.	Woods.

Absent.

Floyd.

Absent—Excused.

Darwin.	Doyle.
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Senator Clark moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—16.

Bailey.	Holbrook.
Bledsoe.	Parr.
Bowers.	Pollard.
Burkett.	Thomas.
Clark.	Turner.
Cousins.	Wirtz.
Davis.	Witt.
Fairchild.	Wood.

Nays—11.

Baugh.	Rogers.
Lewis.	Strong.
McMillin.	Stuart.
Murphy.	Watts.
Rice.	Woods.

Absent.

Floyd.

Absent—Excused.

Darwin.	Doyle.
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Senator Clark moved to reconsider the vote by which the amendment by Senator Woods, placing the salary of State Health Officer at \$3,600.00 per year, was adopted yesterday.

Yeas and nays were demanded, and the motion to reconsider prevailed by the following vote:

Yeas—16.

Bailey.	Parr.
Bledsoe.	Rogers.
Bowers.	Stuart.
Burkett.	Thomas.
Clark.	Turner.
Cousins.	Wirtz.
Fairchild.	Witt.
Holbrook.	Wood.

Nays—10.

Baugh.	Rice.
Lewis.	Ridgeway.
McMillin.	Strong.
Murphy.	Watts.
Pollard.	Woods.

Present—Not Voting.

Floyd.

Absent.

Davis.

Absent—Excused.

Darwin.	Doyle.
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Question: Shall the amendment be adopted?

Senator Floyd offered the following amendment to the amendment:

Amend the amendment by striking out the figures "\$3,600.00" and insert in lieu thereof the figures "\$4,000.00."

Senator Clark moved to table the amendment to the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—14.

Bailey.	Parr.
Bowers.	Rogers.
Clark.	Thomas.
Cousins.	Turner.
Davis.	Wirtz.
Fairchild.	Witt.
Holbrook.	Wood.

Nays—13.

Baugh.	McMillin.
Bledsoe.	Murphy.
Floyd.	Pollard.
Lewis.	Rice.

Ridgeway.
Strong.
Stuart.

Watts.
Woods.

Absent.

Burkett.

Absent—Excused.

Darwin.

Doyle.

Senator Clark then moved to table the amendment by Senator Woods.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—13.

Bledsoe.
Bowers.
Clark.
Cousins.
Davis.
Fairchild.
Parr.

Rogers.
Stuart.
Turner.
Wirtz.
Witt.
Wood.

Nays—11.

Baugh.
Floyd.
Lewis.
McMillin.
Murphy.
Pollard.

Rice.
Ridgeway.
Strong.
Watts.
Woods.

Absent.

Bailey.
Burkett.

Holbrook.
Thomas.

Absent—Excused.

Darwin.

Doyle.

Question: Shall the bill be passed to engrossment?

Yeas and nays were demanded, and the bill was passed to engrossment by the following vote:

Yeas—17.

Bailey.
Bledsoe.
Bowers.
Clark.
Cousins.
Davis.
Fairchild.
Floyd.
Parr.

Pollard.
Rogers.
Stuart.
Thomas.
Turner.
Wirtz.
Witt.
Wood.

Nays—9.

Baugh.
Lewis.
McMillin.
Murphy.
Rice.

Ridgeway.
Strong.
Watts.
Woods.

Absent.

Burkett.

Holbrook.

Absent—Excused.

Darwin.

Doyle.

S. B. No. 61 on Third Reading.

On motion of Senator Clark, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 61 was put upon its third reading and final passage by the following vote:

Yeas—23.

Bailey.
Baugh.
Bledsoe.
Bowers.
Burkett.
Clark.
Cousins.
Davis.
Fairchild.
Floyd.
Lewis.
McMillin.

Parr.
Pollard.
Rogers.
Strong.
Stuart.
Thomas.
Turner.
Watts.
Wirtz.
Witt.
Wood.

Nays—4.

Murphy.
Rice.

Ridgeway.
Woods.

Absent.

Holbrook.

Absent—Excused.

Darwin.

Doyle.

The Chair laid S. B. No. 61 before the Senate on its third reading and final passage.

The bill was read third time and passed by the following vote:

Yeas—18.

Bailey.
Bledsoe.
Bowers.
Burkett.
Clark.
Cousins.
Davis.
Fairchild.
Floyd.

Parr.
Pollard.
Rogers.
Stuart.
Thomas.
Turner.
Wirtz.
Witt.
Wood.

Nays—9.

Baugh.
Lewis.

McMillin.
Murphy.

Rice.	Watts.
Ridgeway.	Woods.
Strong.	Absent.
Holbrook.	
	Absent—Excused.
Darwin.	Doyle.

S. B. No. 62 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 62, A bill to be entitled "An Act authorizing cities having more than five thousand inhabitants to specially illuminate districts thereof, and to construct, install, equip and maintain a system of artificial lights as a local public improvement; providing for abutting property owners desiring such public improvement to petition for same or that same may be done by the governing authorities of the city without such petition; providing for the cost of such local public improvement to be paid by the abutting property owners by assessment in an amount not to exceed the benefits received by the property; providing for a lien against the property and a personal claim against the owner and the issuance of assignable certificates, payable in installments with interest, against the property owner for the amount of the assessment; providing for the letting of the contract for such public improvement by the city and providing for a hearing for the property owners to be heard and make objections; providing for the enforcement of the assessment by suit against the property owners; providing for suit by the property owner to attack the validity of the proceedings hereunder; providing for the system after being completed becoming the property of the city to be maintained and kept up at its expense; and providing for an emergency."

The bill was read third time and passed.

S. B. No. 71 on Second Reading.

On motion of Senator Stuart, by unanimous consent, the regular order was suspended and the Senate took up out of its regular order,

S. B. No. 71, A bill to be entitled "An Act authorizing independent school districts to employ their own tax assessors and to have their taxes collected by the county tax collector, without being required to have their assessments made at the same valuations that are used for State and county taxation, and repealing all laws and parts of laws in conflict with this Act, and declaring an emergency."

The Chair laid the bill before the Senate, it was read second time, and the committee report carrying the following substitute bill was adopted:

A BILL

To be Entitled

An Act amending Title 48, Chapter 16, Articles 2861, 2862, Revised Statutes, 1911, authorizing independent school districts to employ their own tax assessors and to have their taxes collected by the county tax collector, without being required to have their assessments made at the same valuations that are used for State and county taxation, and providing that this Act shall be cumulative of other existing laws, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 2861, Title 48, Chapter 16, Revised Statutes, 1911, be amended so as to hereafter read as follows: "Article 2861. The assessor and collector named herein shall have the same power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the city marshal of incorporated towns or villages, and he shall receive such compensation for his services as the board of trustees may allow, except in cities and towns provided for, not to exceed 4 per cent of the whole amount of taxes received by him, and he shall give bond in double the estimated amount of taxes coming annually into his hands, payable to the president of the board or his successors in office, conditioned for the faithful discharge of his duties, and that he will pay over to the treasurer of the board all funds coming into his hands by virtue of his office as such assessor and collector; provided that in the enforced collection of taxes the board of trustees shall perform the

duties which now devolve in such cases upon the city council of an incorporated city or town; the president of the board of trustees shall perform the duties which devolve in such cases upon the mayor of an incorporated city or town, and the county attorney of the county in which the independent school district is located shall perform the duties which in such cases devolve upon the city attorney of an incorporated city or town under the provisions of Chapter 103, General Laws, Regular Session, Twenty-fifth Legislature.

It shall be within the discretion of the board of trustees of any independent school district to name an assessor of taxes who shall assess the taxable property within the limits of the independent school district within the time and in the manner provided by existing laws, in so far as they are applicable, and when said assessment has been equalized by a board of equalization appointed by the board of trustees for that purpose, shall prepare the tax rolls of said district and shall duly sign and certify same to the county tax collector as provided for in Article 2862, as amended in Section 2 of this Act. The said assessor of taxes shall receive a fee of two per cent of the whole amount of taxes assessed by him as shown by the completed certified tax rolls.

Sec. 2. That Article 2862, Title 48, Chapter 16, Revised Statutes, 1911, be amended so as to hereafter read as follows: "Article 2862. When a majority of the board of trustees of an independent district prefer to have the taxes of their district assessed and collected by the county assessor and collector, or collected only by the county tax collector, same shall be assessed and collected by said county officers and turned over to the treasurer of the independent school district for which such taxes have been collected; provided, that the property of such districts having their taxes assessed and collected by the county assessor and collector, shall not be assessed at a greater value than that assessed for county and State purposes. Provided further, that if the said taxes are assessed by a special assessor of the independent district and are collected only by the county tax collector, the property of said district may be assessed at a greater value

than that assessed for State and county purposes and it shall be the duty of the county tax collector in such cases to accept the rolls prepared by the special assessor and approved by the board of trustees as provided in Article 2861, Revised Statutes 1911, as amended by Section 1 of this Act. Provided further, that when the county assessor and county collector are required to assess and collect the taxes of independent school districts, they shall, respectively, receive 1 per cent for assessing and collecting same.

Sec. 3. This Act does not repeal any former legislation on this subject, but shall be held to be cumulative to any existing law providing for the assessment and collection of taxes in independent school districts.

Sec. 4. The fact that a great many independent school districts in the State of Texas have found it burdensome and impracticable to have their own special collectors, and the fact that the actual collection of independent school district taxes, without the necessity of bringing suits to enforce such collection, has proved to be very difficult unless the collections are made by the county collector so that the tax payer in paying his State and county taxes is required to pay his school district taxes along with them, and the further fact that a great many independent school districts will not be able to finance their necessary operations and maintain efficient schools if their assessments for purposes of school district taxation are not permitted to be any higher than those for purposes of State and county taxation, create an emergency and an imperative public necessity, which demands that the rule requiring bills to be read on three several days be suspended and that this bill become effective from and after its passage, and it is so enacted.

The bill was then passed to engrossment.

S. B. No. 71 on Third Reading.

On motion of Senator Stuart, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 71 was put upon its third reading and final passage by the following vote:

Yeas—25.

Bailey.	Rice.
Baugh.	Ridgeway.
Bledsoe.	Rogers.
Bowers.	Strong.
Burkett.	Stuart.
Clark.	Thomas.
Cousins.	Turner.
Davis.	Watts.
Fairchild.	Wirtz.
Lewis.	Witt.
McMillin.	Wood.
Murphy.	Woods.
Parr.	

Absent.

Floyd.	Pollard.
Holbrook.	

Absent—Excused.

Darwin.	Doyle.
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The Chair laid S. B. No. 71 before the Senate on its third reading and final passage.

The bill was read third time and passed.

H. C. R. No. 9—Final Passage.

Senator Burkett called from the table H. C. R. No. 9, which was read today and laid on the table subject to call.

The Chair laid the resolution before the Senate, and it was adopted.

S. B. No. 63—Vote Reconsidered.

Senator Bailey called up the motion to reconsider the vote by which S. B. No. 63, relating to electrocution of criminals, failed on engrossment yesterday, a motion to reconsider having been spread on the Journal.

Question: Shall the vote by which S. B. No. 63 failed on passage to engrossment be reconsidered?

Yeas and nays were demanded, and the motion to reconsider prevailed by the following vote:

Yeas—15.

Bailey.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Davis.	Stuart.
Floyd.	Thomas.
Holbrook.	Turner.
Murphy.	Wirtz.
Parr.	

Nays—11.

Baugh.	McMillin.
Bledsoe.	Pollard.
Bowers.	Rice.
Cousins.	Watts.
Fairchild.	Wood.
Lewis.	

Absent.

Witt.	Woods.
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Absent—Excused.

Darwin.	Doyle.
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Yeas and nays were demanded, and the bill was passed to engrossment by the following vote:

Yeas—16.

Bailey.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Davis.	Stuart.
Floyd.	Thomas.
Holbrook.	Turner.
Murphy.	Wirtz.
Parr.	Woods.

Nays—11.

Baugh.	McMillin.
Bledsoe.	Pollard.
Bowers.	Rice.
Cousins.	Watts.
Fairchild.	Wood.
Lewis.	

Absent.

Witt.

Absent—Excused.

Darwin.	Doyle.
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S. B. No. 63 on Third Reading.

On motion of Senator Bailey, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 63 was put upon its third reading and final passage by the following vote:

Yeas—26.

Bailey.	Floyd.
Baugh.	Holbrook.
Bledsoe.	Lewis.
Bowers.	McMillin.
Burkett.	Murphy.
Clark.	Parr.
Davis.	Pollard.
Fairchild.	Rice.

Ridgeway.	Turner.
Rogers.	Watts.
Strong.	Wirtz.
Stuart.	Wood.
Thomas.	Woods.

Present—Not Voting.

Cousins.

Absent.

Witt.

Absent—Excused.

Darwin.

Doyle.

The Chair then laid S. B. No. 63 before the Senate on its third reading and final passage.

The bill was read third time and passed.

Yeas—16.

Bailey.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Davis.	Stuart.
Floyd.	Thomas.
Holbrook.	Turner.
Murphy.	Wirtz.
Parr.	Woods.

Nays—11.

Baugh.	McMillin.
Bledsoe.	Pollard.
Bowers.	Rice.
Cousins.	Watts.
Fairchild.	Wood.
Lewis.	

Absent.

Witt.

Absent—Excused.

Darwin.

Doyle.

S. R. No. 33.

By Senator Wirtz:

Whereas, Hon. Jas. A. Harley, a former member of this body and high official of this State, is a visitor in the city; therefore, be it

Resolved, That he be invited to address the Senate and that he be extended the courtesy of the Senate.

The resolution was read and adopted.

Being presented by Senator Wirtz, Mr. Harley addressed the Senate.

S. R. No. 34.

By Senator Fairchild:

I note the Hon. Geo. Armistead is on the floor of the Senate; therefore, be it

Resolved, That he explain his article "On the Wild Night in Austin," that appeared in the San Antonio Express of former date.

The resolution was read and adopted.

H. B. No. 33 on Final Passage.

Senator Fairchild called up H. B. No. 33, relating to enforcement of prohibition laws, which was read third time today and laid on the table subject to call.

The Chair laid the bill before the Senate, with pending amendment by Senator Wood.

Senator Fairchild offered the following substitute for the amendment:

Amend H. B. No. 33, page 1, by striking out Section 2 and inserting in lieu thereof the following:

"Sec. 2. Any such person violating this Act shall be guilty of a felony and upon conviction shall be punished by confinement in the penitentiary for not more than one year or by confinement in the county jail for a period of not more than 90 days, or by a fine of not more than five hundred dollars (\$500.00.)"

Yeas and nays were demanded, and the substitute was lost by the following vote:

Yeas—9.

Cousins.	Rogers.
Fairchild.	Strong.
Murphy.	Turner.
Parr.	Watts.
Pollard.	

Nays—19.

Bailey.	McMillin.
Baugh.	Rice.
Bledsoe.	Ridgeway.
Bowers.	Stuart.
Burkett.	Thomas.
Clark.	Wirtz.
Davis.	Witt.
Floyd.	Wood.
Holbrook.	Woods.
Lewis.	

Absent—Excused.

Darwin.

Doyle.

Question then recurred on the amendment by Senator Wood.

Senator Fairchild moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—17.

Baugh.	Rice.
Bledsoe.	Ridgeway.
Bowers.	Rogers.
Davis.	Strong.
Fairchild.	Stuart.
Lewis.	Turner.
McMillin.	Watts.
Parr.	Witt.
Pollard.	

Nays—8.

Bailey.	Murphy.
Burkett.	Wirtz.
Clark.	Wood.
Holbrook.	Woods.

Present—Not Voting.

Cousins.

Absent.

Floyd.

Thomas.

Absent—Excused.

Darwin.

Doyle.

Senator Burkett offered the following amendment to the bill:

Amend H. B. No. 33, by adding thereto a new section to read as follows, and re-number Section No. 4:

"Sec. 3. All laws and parts of laws in conflict or partial conflict herewith are hereby expressly repealed."

The amendment was adopted.

Senator Davis offered the following amendment to the bill:

Amend H. B. No. 33, page 1, by striking out Section 2 and inserting in lieu thereof the following:

"Sec. 2. Any such person violating this Act shall be guilty of a felony and upon conviction shall be punished by confinement in the penitentiary for not more than two years or by confinement in the county jail for a period of not more than 90 days, or by a fine of not more than five hundred dollars (\$500.00)."

Question: Shall the amendment be adopted?

Message from the House.

Hall of the House of Representatives,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 54, A bill to be entitled, "An Act releasing the inhabitants of and property in Wharton County, comprising one district, and that portion of Matagorda County embraced in Commissioners Precincts Nos. 1, 2 and 4 as described in the minutes of the commissioners' court of said county, comprising another district, for a period of twenty-five years, from the payment of taxes levied for State purposes, because of great public calamities in said county, as provided in Section 10 of Article 8 of the State Constitution, upon condition that each district above defined, respectively, shall be organized into a conservation and reclamation district and shall vote bonds of such district to prevent the recurrence of such calamities, and in cases of failure of either of said districts by or before October 1, 1924, said Act shall become null and void, and said taxes shall be collected in the usual manner and paid into the public treasury, and declaring an emergency," with amendments.

S. C. R. No. 14, Extending the dates of maturity of certain notes payable to the Prison Commission of Texas, with amendments.

H. B. No. 12, A bill to be entitled "An Act providing for uniformity and equalization of taxation; conferring upon the State Tax Board general supervision over the administration of the laws relating to taxation and over assessors and collectors of taxes and county commissioners courts sitting as boards of equalization, to the end that assessments of all classes of property for purposes of State taxation shall be made relatively just and equal in the several counties of the State; providing for the review by such State Tax Board of the aggregate assessments of the various classes of property in the several counties and empowering it to raise or lower the valuation of property in any county or counties for purpose of State taxation; prescribing the duty of tax assessors and collectors and the county judge and county commissioners with reference to equalization for purposes of State taxes; providing for a hearing and notice before fixing valuations by the State Tax Board; providing for a hearing and notice by the county board of equalization before carrying into effect the

orders of the State Tax Board with reference to valuations; authorizing the county commissioners court to adopt the valuation fixed in compliance with the orders of the State Board for purposes of taxes other than State taxes and permitting it to adopt a different valuation for purposes of State taxes if it elects to do so; enacting provisions necessary and incident to the subject and purpose of this Act; amending Articles 7580 and 7350 of the Revised Civil Statutes of Texas; making the necessary changes in the laws relating to the duties of tax assessors, tax collectors and county boards of equalization, and specifying and fixing dates for the performance thereof, so as to carry into effect the provisions of the Act; requiring the tax collector in assessing taxes under provisions of law authorizing him to do so to conform to the orders and instructions of the State Tax Board, and making it unlawful for tax collectors to collect any State taxes or other taxes until there has been delivered to them a tax roll in which the State taxes show to have been extended on valuations complying with the orders of the State Tax Board; providing for mandamus suits by the State Tax Board and prescribing procedure therein and rules governing appeals therefrom; extending time for payment of taxes without penalty if rolls are not completed by the end of the year; authorizing the State Tax Board to prescribe forms, and to require the descriptions of real estate, and to require that improvements be listed separately from lands and lots on which they are situated in making assessments; providing for the removal of any member of the State Tax Board, assessor or collector of taxes or county judge or county commissioner who shall wilfully fail or refuse to comply with the provisions of the Act; declaring the rule of construction in case of invalidity of any provision of the Act; providing the time when the Act shall take effect and repealing all laws or parts of laws in conflict therewith."

H. C. R. No. 10, Providing for the exchange of certain lands between the Hermann estate and the Prison Commission of Texas.

S. B. No. 44, A bill to be entitled "An Act amending Article 3093 of

the Revised Civil Statutes of the State of Texas, of 1911, by adding a new section following such article to be numbered Article 3093a; providing that any qualified elector under the laws and Constitution who is a Democrat shall be eligible to participate in Democratic primaries, but, declaring that in no event shall a negro participate in a Democratic primary in the State of Texas and declaring ballots cast by negroes as void."

Respectfully submitted,
C. L. PHINNEY,
Chief Clerk, House of Representatives.

Bill Read and Referred.

The Chair (President Pro Tem Charles Murphy) had referred, after its caption had been read, the following House bill:

H. B. No. 12, to the Committee on State Affairs.

Adjournment.

On motion of Senator Wood, the Senate at 5:55 p. m. adjourned until 9:30 a. m. tomorrow.

APPENDIX.

Committee Reports.

Senate Chamber,
Austin, Texas, May 9, 1923.
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 61 carefully compared and find same to be correctly engrossed.

STRONG, Vice-Chairman.

Senate Chamber,
Austin, Texas, May 9, 1923.
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 71 carefully compared and find same to be correctly engrossed.

STRONG, Vice-Chairman.

Senate Chamber,
Austin, Texas, May 9, 1923.
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill

No. 106 carefully compared and find same to be correctly engrossed.

STRONG, Vice-Chairman.

Senate Chamber,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 72 carefully compared and find same to be correctly engrossed.

STRONG, Vice-Chairman.

Senate Chamber,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 92 carefully compared and find same to be correctly engrossed.

STRONG, Vice-Chairman.

Senate Chamber,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 82 carefully compared and find same to be correctly engrossed.

STRONG, Vice-Chairman.

Committee Room,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational affairs, to whom was referred

S. B. No. 103, A bill to be entitled "An Act repealing Chapter 78 of the Special and Local Laws of the Thirty-eighth Legislature, passed at its Regular Session, being an Act creating the Brownsboro Independent School District in Henderson County, Texas, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed, same being a local bill.

WOOD, Chairman.

Committee Room,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 106, A bill to be entitled "An Act to amend Title 5, Article 30, paragraphs 15 and 59, of the Revised Civil Statutes of Texas of

1911, which article provides for judicial districts of the State; and which paragraph 15 defines the Fifteenth Judicial District and determines the date and length of term of such district court in Grayson County; and which paragraph 59 defines the Fifty-ninth Judicial District and determines the date and length of term of such district court in each of the counties of said district, namely, Grayson and Collin Counties; and which amendment provides for a change in the terms and time of holding court in each of said judicial districts, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

POLLARD, Chairman.

Committee Room,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Labor, to whom was referred

S. B. No. 86, A bill to be entitled "An Act to amend Sections 3 and 20 of House Bill No. 13, passed at the Regular Session of the Thirty-eighth Legislature and approved by the Governor on February 28, 1923, and being an Act providing for the licensing, bonding and regulating of private employment agents; limiting the fee charged by such agents; providing for the cancellation of such license; prescribing the duties of the Commissioner of Labor Statistics for the State of Texas with reference to the enforcement of this Act, etc."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

MURPHY, Chairman.

Committee Room,
Austin, Texas, May 9, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 32, A bill to be entitled "An Act providing for the levying and collection of income taxes upon individuals, firms, co-partnerships, corporations, joint stock companies and associations, etc."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that committee substitute do pass and original bill and committee substitute be printed in the Journal and not otherwise.

WITT, Chairman.

NINETEENTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, May 10, 1923.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem Charles Murphy.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Parr.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Cousins.	Stuart.
Davis.	Thomas.
Fairchild.	Turner.
Floyd.	Watts.
Holbrook.	Wirtz.
Lewis.	Witt.
McMillin.	Wood.
Murphy.	Woods.

Absent—Excused.

Darwin. Doyle.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Watts.

(See Appendix for committee reports, petitions and memorials.)

Bills on First Reading.

The following bills, introduced today, were each read first time and referred to appropriate committees as follows:

By Senator Bledsoe:

S. B. No. 110, A bill to be entitled "An Act fixing the compensation of county commissioners in counties having a population of not less than sixteen thousand five hundred nor more than seventeen thousand five

hundred according to the last United States census, and which, have an area of not less than eleven hundred and fifty square miles nor more than twelve hundred square miles and declaring an emergency."

To the Committee on Roads, Bridges and Ferries.

By Senator Rogers:

S. B. No. 111, A bill to be entitled "An Act to amend Title 5, Article 30, paragraphs 15 and 59, of the Revised Civil Statutes of Texas of 1911, which Article provides for judicial districts of the State; and which paragraph 15 defines the Fifteenth Judicial District and determines the date and length of term of such district court in Grayson County; and which paragraph 59 defines the Fifty-ninth Judicial District and determines the date and length of term of such district court in each of the counties of said district, namely, Grayson and Collin Counties; and which amendment provides for a change in the terms and time of holding court in each of said judicial districts, and declaring an emergency.

To the Committee on Judicial Districts.

By Senator Floyd:

S. B. No. 112, A bill to be entitled "An Act to define what shall constitute a unit of weight or measure of all commodities purchased or sold by length, weight or measure; providing for the sale of commodities by State standards of weight or measure; providing for the sale of hay by weight; establishing a standard for bread sold in loaves; providing penalties for the enforcement of this law; repealing certain statutes and declaring an emergency."

To the Committee on Criminal Jurisprudence.

H. B. No. 69 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage.

H. B. No. 69, A bill to be entitled "An Act extending oil and gas permits on lands which are now or have been in the possession or under the control of the Federal receiver appointed by the Supreme Court of the United States for such periods of time, respectively, as such lands have been or may be in such receiver's